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FM AMEMBASSY JAKARTA
TO RUEHC/SECSTATE WASHDC 2878
INFO RUEHZS/ASSOCIATION OF SOUTHEAST ASIAN NATIONS COLL
RUCPDO/DEPT OF COMMERCE WASHINGTON DC
RUEATRS/DEPT OF TREASURY WASHDC
RUEHKL/AMEMBASSY KUALA LUMPUR 2576
RUEHBK/AMEMBASSY BANGKOK 8768
RUEHGP/AMEMBASSY SINGAPORE 6558

UNCLAS JAKARTA 001224

SIPDIS

SENSITIVE

DEPT PASS TO USTR RKIRK,
DEPT FOR EAP/MTS, EAP/RSP, EB/TPP, EB/TPP/BTA
USTR FOR BWEISEL, KEHLERS
TREASURY FOR IA-BAUKOL

E.O. 12598: N/A

TAGS: [BEXP](#) [EINV](#) [ECON](#) [ETRD](#) [ID](#)

SUBJECT: INDONESIA REQUESTS CONSULTATION ON TOBACCO ACT

¶1. (SBU) SUMMARY: On July 22, 2009, Embassy received official correspondence from Government of Indonesia (GOI) Minister of Trade Mari Pangestu addressed to United States Trade Representative (USTR) Ron Kirk. The letter details GOI concerns over recently signed tobacco legislation and requests a meeting in Geneva to discuss the issue. End Summary.

¶2. (SBU) Begin text:

Minister of Trade of the Republic of Indonesia

Jakarta, 17 July 2009
Our ref No: 1043/M-DAG/7/2009

His Excellency
Ambassador Ron Kirk
United States Trade Representative
600 17th Street, N.W.
Washington, DC 20508

Dear Ambassador Kirk:

I recently wrote to you to express my deep concerns regarding the ban on clove cigarettes contained in the Family Smoking Prevention and Tobacco Control Act (the Act"), which was signed into law on 22 June 2009. Section 907 of the Act bans all flavored cigarettes except menthol beginning 90 days after the Act is signed. The Indonesian government has repeatedly communicated our steadfast view that Sec. 907 of the Act is inconsistent with the general principles of the World Trade Organization ("WTO") on non-discrimination as well as WTO Agreement on the Technical Barriers to Trade.

On many occasions I have conveyed our view that the TBT Agreement obligates the United States to ensure that, in respect of its technical regulations, products imported from the territory of any WTO Member shall be accorded treatment no less favorable than that accorded to domestic like products and to like products originating in any other country. The TBT Agreement also obligates the United States to ensure that its technical regulations are not more trade-restrictive than necessary, thereby creating unnecessary obstacles to international trade. In that regard, the TBT Agreement requires that the United States take account of scientific and technical information, as well as the special development and trade needs of developing country Members, such as Indonesia. Similar obligations exist under the WTO Agreement on Sanitary and Phytosanitary Measures (SPS Agreement) and the General Agreement on Tariffs and Trade 1994.

I regret that our efforts to secure an amendment to the Act that

would correct the discriminatory treatment of clove cigarettes have not been successful. Given the short window of time before clove cigarettes are banned from the U.S. market, I respectfully request consultations with the United States to discuss the issue. I propose to hold the consultation in Geneva promptly at a mutually agreeable date.

Please confirm at your earliest opportunity so that we can proceed with arrangements in Geneva.

Thank you for your kind attention to this matter.

Yours sincerely,
Signed
Mari Elka Pangestu

CC:

- 1. Ambassador of the Republic of Indonesia to USA, Washington DC;
- 2. Ambassador of the Republic of Indonesia to the WTO, Geneva;
- 3. Ambassador of the United States of America, Jakarta;
- 4. Director General for International Trade Cooperation, MOT;
- 5. Special Assistant to Minister of Trade for International Cooperation, MOT.

End text.

HUME